

EXHIBIT 1

INTRODUCTION

Respondent Barwest LLC is a developer based in Detroit, Michigan, which is involved in the financing of an Indian gaming casino in Barstow, California.

In 2004, during the second semi-annual campaign reporting period, Respondent made a \$26,600 political contribution, and thereby qualified as a “major donor committee” under the Political Reform Act (the “Act”).¹ As such, Respondent was required to comply with specified campaign reporting provisions of the Act.

As a major donor committee, Respondent was required by the Act to file a late contribution report disclosing its late contribution within 24 hours of making it. In this case, Respondent made a late contribution prior to the November 2004 general election, which it failed to disclose in a properly filed late contribution report, thereby committing a violation of the Act.

As a major donor committee, Respondent was also required by the Act to file a semi-annual campaign statement, commonly known as a “major donor statement,” disclosing Respondent’s campaign activity during the twelve-month period of January 1, 2004, through December 31, 2004.

For the purposes of this Stipulation, Respondent’s violations are stated as follows:

COUNT 1: Respondent Barwest LLC failed to disclose a \$26,600 late contribution to the San Joaquin County Republican Central Committee in a properly filed late contribution report, by the October 19, 2004, due date, in violation of Section 84203, subdivision (a) of the Government Code.

COUNT 2: Respondent Barwest LLC failed to file a paper format semi-annual campaign statement, by the January 31, 2005, due date, for the reporting period January 1, 2004, through December 31, 2004, in violation of section 84200, subdivision (b) of the Government Code.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that the contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system designed

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

to accomplish this purpose of disclosure.

Section 82013, subdivision (c) includes within the definition of “committee” any person or combination of persons who directly or indirectly makes contributions, including loans, totaling ten thousand dollars (\$10,000) or more in a calendar year to, or at the behest of, candidates or committees. This type of committee is commonly referred to as a “major donor” committee.

Section 82046, subdivision (b) specifies that the “period covered” by a campaign statement shall begin with the day after the closing date for the last statement filed. If a person has not previously filed a campaign statement, the period covered begins on January 1.

Section 84200, subdivision (b) requires a major donor committee to file a semi-annual campaign statement for any reporting period in which the committee made campaign contributions. The first semi-annual campaign statement covers the reporting period January 1 through June 30, and must be filed by July 31. The second semi-annual campaign statement covers the reporting period July 1 through December 31, and must be filed by January 31 of the following year.

Under section 84203, subdivision (a), when a committee makes or receives a late contribution, the committee must disclose the contribution in a late contribution report that must be filed within 24 hours of making or receiving the contribution. Section 82036 defines a “late contribution” as a contribution aggregating \$1,000 or more that is made or received before an election, but after the closing date of the last pre-election statement. Under section 84200.7, subdivision (b), for an election held in June or November of an even-numbered year, the late contribution period covers the last 16 days before the election.

Section 84215, subdivision (a) requires all major donor committees that make contributions supporting or opposing state candidates, measures, or committees to file their campaign statements with the offices of the Secretary of State, the Registrar-Recorder of Los Angeles County, and the Registrar of Voters of the City and County of San Francisco.

SUMMARY OF THE FACTS

During the semi-annual reporting period July 1, 2004, through December 31, 2004, Respondent Barwest LLC made a \$26,600 campaign contribution to the San Joaquin County Republican Central Committee. By making a campaign contribution of \$10,000 or more in the 2004 calendar year, Respondent qualified as a major donor committee under section 82013, subdivision (c).

The Enforcement Division staff discovered the violation as part of the Enforcement Division’s Streamlined Major Donor Program. Upon discovering the violation, Enforcement Division staff contacted Respondent on August 5, 2005. In response to that contact, Respondent filed its major donor statement on August 31, 2005, seven months late. Respondent declined to participate in the streamlined program.

COUNT 1
Failure to File a Late Contribution Report

On October 18, 2004, Respondent Barwest LLC made a contribution of \$26,600 to the San Joaquin County Republican Central Committee. As a major donor committee, Respondent Barwest LLC had a duty, under section 84203, subdivision (a), to file a late contribution report disclosing the contribution by the October 19, 2004, due date. Respondent was required to file the statement at all of the locations specified in section 84215, subdivision (a) including the Office of the Secretary of State. Respondent failed to file a late contribution report by the October 19, 2004, due date, in violation of section 84203, subdivision (a).

COUNT 2
Failure to File a Semi-Annual Campaign Statement

As a major donor committee, Respondent Barwest LLC had a duty, under section 84200, subdivision (b), to file a paper format semi-annual campaign statement for the reporting period January 1, 2004, through December 31, 2004, disclosing the \$26,600 contribution that it made during that reporting period. Respondent was required to file the statement at all of the locations specified in section 84215, subdivision (a), including the Office of the Secretary of State, by January 31, 2005. Respondent failed to file a semi-annual campaign statement by the January 31, 2005, due date, in violation of section 84200, subdivision (b).

CONCLUSION

This matter consists of two counts, which carry a maximum possible administrative penalty of Ten Thousand Dollars (\$10,000).

The administrative penalty imposed for late contribution reporting violations resolved outside of the Streamlined Late Contribution Enforcement Program has been determined on a case-by-case basis, and has varied depending on the mix of aggravating and mitigating circumstances. In this case, Respondent's violations, while not particularly aggravated, are serious in that the late contribution reporting requirements of the Act serve a very important role of informing voters of eleventh-hour pre-election contributions; and Respondent never filed its late contribution report. Additionally, under the Streamlined Late Contribution Program itself, a penalty of fifteen percent of the amount unreported is appropriate, although under the program that amount is limited to \$3,500. Therefore, in light of all of these factors, imposition of a penalty of \$4,000 for Respondent's failure to file a late contribution report is justified.

The administrative penalty imposed for major donor filing violations resolved outside of the Streamlined Major Donor Enforcement Program has also been determined on a case-by-case basis, and has varied depending on the mix of aggravating and mitigating circumstances. There are no aggravating or mitigating circumstances in this case. Therefore, a penalty in the mid-range of available penalties is appropriate. These factors justify imposition of a penalty of Two

Thousand Five Hundred Dollars (\$2,500) for Respondent's failure to timely file a major donor statement.

The facts of this case justify the imposition of the agreed upon penalty of Six Thousand Five Hundred Dollars (\$6,500).